

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)
v.)
DAMIAN ANTONIO MURPHY,)
Defendant.)
) Case No. 1:06CR00062
)
) ORDER
)
) By: James P. Jones
) United States District Judge

For the reasons set forth in the Opinion accompanying this Final Order, it is
ORDERED as follows:

1. The defendant's Motion to Strike (ECF No. 297) is GRANTED, and his initial motion seeking relief under Fed. R. Civ. P. 60(b) (ECF No. 295) is TERMINATED AS MOOT;
 2. The defendant's Motion for Reconsideration under Rule 60(b)(3) (ECF No. 296) is DENIED, and the motion is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;
 3. The Clerk is DIRECTED to redocket the motion (ECF No. 296) as a § 2255 motion;

4. The § 2255 motion is hereby DENIED without prejudice as successive; and

5. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: May 25, 2012

/s/ James P. Jones
United States District Judge